

Enrolled
Senate Bill 270

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CHAPTER

AN ACT

Relating to courts; creating new provisions; amending ORS 1.002, 1.171, 1.202, 10.030, 18.775, 21.125, 21.682, 135.705, 135.707, 416.440 and 419A.200; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

COURT CLOSURES

SECTION 1. ORS 1.002 is amended to read:

1.002. (1) The Supreme Court is the highest judicial tribunal of the judicial department of government in this state. The Chief Justice of the Supreme Court is the presiding judge of the court and the administrative head of the judicial department of government in this state. The Chief Justice shall exercise administrative authority and supervision over the courts of this state consistent with applicable provisions of law and the Oregon Rules of Civil Procedure. The Chief Justice, to facilitate exercise of that administrative authority and supervision, may:

- (a) Make rules and issue orders appropriate to that exercise.
- (b) Require appropriate reports from the judges, other officers and employees of the courts of this state and municipal courts.
- (c) Pursuant to policies approved by the Judicial Conference of the State of Oregon, assign or reassign on a temporary basis all judges of the courts of this state to serve in designated locations within or without the county or judicial district for which the judge was elected.
- (d) Set staffing levels for all courts of the state operating under the Judicial Department and for all operations in the Judicial Department.
- (e) Establish time standards for disposition of cases.
- (f) Establish budgets for the Judicial Department and all courts operating under the Judicial Department.
- (g) Assign or reassign all court staff of courts operating under the Judicial Department.
- (h) Pursuant to policies approved by the Judicial Conference of the State of Oregon, establish personnel rules and policies for judges of courts operating under the Judicial Department.
- (i) **Establish procedures for closing courts in emergencies.**
- (j) **Establish standards for determining when courts are closed for purposes of ORCP 10, ORS 174.120 and other rules and laws that refer to periods of time when courts are closed.**

[i] (k) Take any other action appropriate to the exercise of the powers specified in this section and other law, and appropriate to the exercise of administrative authority and supervision by the Chief Justice over the courts of this state.

(2) The Chief Justice may make rules for the use of electronic applications in the courts, including but not limited to rules relating to:

(a) Applications based on the use of the Internet and other similar technologies;

(b) The use of an electronic document, or use of an electronic image of a paper document in lieu of the original paper copy, for a document, process or paper that is served, delivered, received, filed, entered or retained in any action or proceeding;

(c) The use of electronic signatures or another form of identification for any document, process or paper that is served, delivered, received, filed, entered or retained in any action or proceeding and that is required by any law or rule to be signed;

(d) The use of electronic transmission for the service of documents in a proceeding, other than service of a summons or service of an initial complaint or petition;

(e) Payment of statutory or court-ordered monetary obligations through electronic media;

(f) Electronic storage of court documents;

(g) Use of electronic citations in lieu of the paper citation forms as allowed under ORS 153.770, including use of electronic citations for parking ordinance violations that are subject to ORS 221.333 or 810.425;

(h) Public access through electronic means to court documents that are required or authorized to be made available to the public by law; and

(i) Transmission of open court proceedings through electronic media.

(3) Rules adopted by the Chief Justice under subsection (2) of this section must be consistent with the laws governing courts and court procedures, but any person who serves, delivers, receives, files, enters or retains an electronic document, or an electronic image of a paper document in lieu of the original paper copy, in the manner provided by a rule of the Chief Justice under subsection (2) of this section shall be considered to have complied with any rule or law governing service, delivery, reception, filing, entry or retention of a paper document.

(4) Rules made and orders issued by the Chief Justice under this section shall permit as much variation and flexibility in the administration of the courts of this state as are appropriate to the most efficient manner of administering each court, considering the particular needs and circumstances of the court, and consistent with the sound and efficient administration of the judicial department of government in this state.

(5) The judges, other officers and employees of the courts of this state shall comply with rules made and orders issued by the Chief Justice. Rules and orders of a court of this state, or a judge thereof, relating to the conduct of the business of the court shall be consistent with applicable rules made and orders issued by the Chief Justice.

(6) The Chief Judge of the Court of Appeals and the presiding judge of each judicial district of this state are the administrative heads of their respective courts. They are responsible and accountable to the Chief Justice of the Supreme Court in the exercise of their administrative authority and supervision over their respective courts. Other judges of the Court of Appeals or court under a presiding judge are responsible and accountable to the Chief Judge or presiding judge, and to the Chief Justice, in respect to exercise by the Chief Justice, Chief Judge or presiding judge of administrative authority and supervision.

(7) The Chief Justice may delegate the exercise of any of the powers specified by this section to the presiding judge of a court, and may delegate the exercise of any of the administrative powers specified by this section to the State Court Administrator, as may be appropriate.

(8) This section applies to justices of the peace and the justice courts of this state solely for the purpose of disciplining of justices of the peace and for the purpose of continuing legal education of justices of the peace.

DELEGATION OF PRESIDING JUDGE POWERS

SECTION 2. ORS 1.171 is amended to read:

1.171. (1) A presiding judge appointed under ORS 1.003 is presiding judge for the circuit court of a judicial district established under ORS 3.012.

(2) The presiding judge, to facilitate exercise of administrative authority and supervision over the circuit court of the district and consistent with applicable provisions of law and the Oregon Rules of Civil Procedure, may:

(a) Apportion and otherwise regulate the disposition of the judicial business of the circuit court of the judicial district; and

(b) Make rules, issue orders and take other action appropriate to that exercise.

(3) The presiding judge may assign actions and proceedings pending before a court to other judges of the judicial district for hearing and disposition. A judge who is assigned an action or proceeding under this subsection shall hear and dispose of the assigned action or proceeding unless the presiding judge withdraws the assignment for good cause shown.

(4) The presiding judge may delegate the exercise of any of the administrative powers of the presiding judge to another judge of the court or to the trial court administrator for the judicial district.

COURT FEES

SECTION 3. ORS 1.202 is amended to read:

1.202. (1) All circuit courts and appellate courts of this state, and all commissions, departments and divisions of the judicial branch of state government, shall add a fee of not less than \$50 and not more than \$100 to any judgment that includes a monetary obligation that the court or judicial branch is charged with collecting. The fee shall be added to cover the cost of establishing and administering an account for the debtor and shall be added without further notice to the debtor or further order of the court. The fee shall be added only if the court gives the defendant a period of time in which to pay the obligation after the financial obligation is imposed. Fees under this subsection shall be deposited in the General Fund.

(2) All circuit courts and appellate courts of this state, and all commissions, departments and divisions of the judicial branch of state government, that use the Department of Revenue or private collection agencies shall add a fee to any judgment referred for collection that includes a monetary obligation that the state court or the commission, department or division is charged with collecting. The fee shall be added to cover the costs of [*collection charged by*] **collecting judgments referred to** the Department of Revenue or private collection agency and shall be added to the monetary obligation without further notice to the debtor or further order of the court. The fee may not exceed the actual costs of [*collection charged by the Department of Revenue or private collection agency*] **collecting the judgment**. Fees under this subsection shall be deposited in the Judicial Department Collections Account established under ORS 1.204 and may be used only for the purposes specified in ORS 1.204.

(3) The Chief Justice of the Supreme Court may authorize courts to waive or suspend the fees required to be added to judgments under this section. Except to the extent authorized by the Chief Justice, a court may not waive or suspend the fees required to be added to judgments under [*the provisions of*] this section.

SECTION 4. ORS 21.125 is amended to read:

21.125. (1) In any action, suit or proceeding subject to a fee under ORS 21.110, or in any civil appeal or petition subject to a fee under ORS 21.010, the Chief Justice of the Supreme Court may require that a \$50 fee be paid at the time of filing a motion identified by the Chief Justice as being subject to a fee under this section. If the Chief Justice has identified a motion as being subject to a fee under this section, the responding party must file a fee of \$35 upon the filing of a response to the motion. The Chief Justice by order shall identify motions that are subject to fees under this section.

(2) The fees provided for in this section may not be collected from the state, a county, a city or a school district.

(3) The fees provided for in this section may not be collected for motions for judgment by voluntary dismissal under ORCP 54 A(1), for motions for judgment by written stipulation under ORCP 67 F or for motions for entry of default judgment under ORCP 69 B(1).

(4) The fees provided for in this section may not be collected for motions made to an arbitrator or mediator in an arbitration or mediation required or offered by a court, or to any motion relating to an arbitration or mediation required or offered by a court.

(5) The clerk shall file a motion or response that is subject to a fee under this section only if the fee required by this section is paid when the motion or response is submitted for filing.

SECTION 5. ORS 21.682 is amended to read:

21.682. (1) A judge may waive or defer all or part of the fees and court costs payable to the court by a party in a civil action or proceeding, **including sheriff's fees under ORS 21.410 (1)(a)**, if the judge finds that the party is unable to pay all or any part of the fees and costs. Waiver or deferral under this section of the fees or court costs of an inmate, as defined in ORS 30.642, is subject to ORS 30.642 to 30.650.

(2) A presiding judge may delegate authority to waive or defer fees and court costs under this section to the court administrator for the court in which the judge serves. A delegation of authority under this subsection must be in writing and must be subject to clear standards. If a delegation is made under this subsection, an applicant may seek review of the court administrator's decision by a judge. If an applicant requests review of a court administrator's decision, the court administrator shall forward the application for waiver or deferral of the fees or court costs to the appropriate judge.

(3) A court may not delay or refuse to enter an order or judgment in an action or proceeding because deferred fees and court costs have not been paid.

(4) The Chief Justice of the Supreme Court by order may provide standards and practices for waiver or deferral of fees or court costs under ORS 21.680 to 21.698.

JUDGMENTS GENERALLY

SECTION 6. Section 7 of this 2009 Act is added to and made a part of ORS chapter 18.

SECTION 7. Except as provided in ORS 416.440 (6), a supplemental judgment may only contain provisions that were not included in the general judgment.

SECTION 8. ORS 18.775 is amended to read:

18.775. (1) If a garnishee fails to file a garnishee response within the time required by law, or fails to deliver all garnishable property required to be delivered under the writ of garnishment within the time required by law, the garnishee is liable to the creditor in an amount equal to the lesser of:

(a) The amount required to satisfy the garnishment; or

(b) The value of the debtor's garnishable property held by the garnishee at the time the writ is delivered to the garnishee.

(2) A judgment may be entered against the garnishee for the amounts specified in this section if, after a hearing, the court finds that:

(a) The garnishee at the time of the delivery of the writ of garnishment held garnishable property of the debtor beyond the amount reported in the garnishee response;

(b) The garnishee held any garnishable property of the debtor and the garnishee failed to make a response; or

(c) The garnishee failed to deliver garnishable property required to be delivered under the writ.

(3) A supplemental judgment shall be entered under subsection (2) of this section if the garnishment was issued for a debt described in ORS 18.605 (1)(a) and a general judgment has been entered in the action. A limited judgment shall be entered under subsection (2) of this

section if the garnishment was issued for a debt described in ORS 18.605 (1)(a) and a general judgment has not been entered in the action. A limited or general judgment shall be entered under subsection (2) of this section if the garnishment was issued for a debt described in ORS 18.605 (1)(b), (c) or (d).

[3] (4) **If a garnishee is liable to a creditor under subsections (1) and (2) of this section,** the creditor may also recover costs of the creditor as determined under ORCP 68. If the garnishee fails to file a garnishee response within the time required by law, the costs of the creditor may be recovered from the garnishee even if it is determined that the garnishee held no garnishable property of the debtor at the time the writ was delivered to the garnishee.

[4] (5) Any amounts from a garnishee collected other than costs under a judgment entered pursuant to this section must be credited against the debt owed by the debtor to the creditor.

SECTION 9. ORS 135.705 is amended to read:

135.705. (1)(a) If the person injured acknowledges in writing, at any time before trial on an accusatory instrument for the crime, that the person has received satisfaction for the injury, the court may, in its discretion, on payment of the costs and expenses incurred, [order] **enter a judgment dismissing** the accusatory instrument [*dismissed. The order must be entered in the register*].

(b) For purposes of paragraph (a) of this subsection, a written acknowledgment that a civil penalty under ORS 30.875 has been paid is not evidence that the person injured has received full satisfaction for the injury and is not a compromise under this section.

(2) As used in this section, "costs" includes those expenses specially incurred by the state in prosecuting the defendant, including costs under ORS 151.505 for the compensation of counsel appointed pursuant to ORS 135.045 or 135.050 and fees and expenses paid under ORS 135.055.

SECTION 10. ORS 135.707 is amended to read:

135.707. [*The order authorized by ORS 135.705, when made and entered,*] **A judgment entered under ORS 135.705** is a bar to another prosecution for the same crime.

SECTION 11. ORS 416.440 is amended to read:

416.440. (1) The documents required to be filed for purposes of subsection (2) of this section include all the following:

(a) A true copy of any order entered, filed or registered by the administrator or administrative law judge pursuant to ORS 416.400 to 416.465 or ORS chapter 110.

(b) A true copy of the return of service, if applicable.

(c) A separate statement containing the information required to be contained in a judgment under ORS 18.042 (2).

(2) The documents described under subsection (1) of this section shall be filed in the office of the clerk of the circuit court in the county in which either the parent or the dependent child resides or in the county where the court order was entered if the administrative order is an order modifying a court order. Upon receipt of the documents, the clerk shall enter the order in the register of the circuit court, shall note in the register that the order creates a lien and shall make the notations required by ORS 18.075 in the judgment lien record maintained under ORS 18.075.

(3) Upon entry in the register under subsection (2) of this section, the order shall have all the force, effect and attributes of a judgment of the circuit court, including but not limited to:

(a) Creation of a judgment lien under ORS chapter 18; and

(b) Ability to be enforced by contempt proceedings and pursuant to ORS 18.252 to 18.993.

(4) Notwithstanding subsection (3) of this section, an administrative order modifying a court order shall not become effective until reviewed and approved by the court under ORS 416.425 (10).

(5) Notwithstanding subsections (2) and (3) of this section, the entry in the register of an order of the administrator or administrative law judge does not preclude any subsequent proceeding or remedy available under ORS 416.400 to 416.465.

(6) An order filed under this section that modifies a previously filed order or a previously entered judgment may contain provisions that were included in the order or judgment.

[6] (7) A court or administrative order of another state may be filed, or if appropriate, registered, pursuant to this section for the purposes of ORS chapter 110. Notwithstanding any other

provision of this chapter, an order of another state registered pursuant to ORS 110.405, 110.408 and 110.411 may not be modified unless the requirements of ORS 110.432 are met.

RECORDS ON APPEAL FROM JUVENILE COURT JUDGMENTS

SECTION 12. ORS 419A.200 is amended to read:

419A.200. (1) Except as provided in ORS 419A.190, any person or entity, including, but not limited to, a party to a juvenile court proceeding under ORS 419B.875 (1) or 419C.285 (1), whose rights or duties are adversely affected by a judgment of the juvenile court may appeal therefrom. An appeal from a circuit court must be taken to the Court of Appeals, and an appeal from a county court must be taken to the circuit court.

(2) If the proceeding is in the circuit court and no record of the proceedings was kept, the court, on motion made not later than 15 days after the entry of the court's judgment, shall grant a rehearing and shall direct that a record of the proceedings be kept. However, the court may not grant a rehearing in a case barred by ORS 419A.190 without the consent of the child, ward, youth or youth offender affected by such case. If a rehearing is held, the time for taking an appeal runs from the date of entry of the court's judgment after the rehearing.

(3)(a) The appeal may be taken by causing a notice of appeal, in the form prescribed by ORS 19.250, to be served:

(A) On all parties who have appeared in the proceeding;

(B) On the trial court administrator or other person serving as clerk of the juvenile court; and

(C) On the juvenile court transcript coordinator, if a transcript is designated in connection with the appeal.

(b) The original of the notice with proof of service must be filed with:

(A) The Court of Appeals if the appeal is from a circuit court; or

(B) The circuit court if the appeal is from a county court.

(c) The notice must be filed not later than 30 days after the entry of the court's judgment. On appeal from the county court, the circuit court shall hear the matter de novo and its judgment is appealable to the Court of Appeals in the same manner as if the proceeding had been commenced in the circuit court.

(4) The counsel in the proceeding from which the appeal is being taken shall file and serve those documents necessary to commence an appeal if the counsel is requested to do so by the party the counsel represents. If the party requesting an appeal is represented by court-appointed counsel, court-appointed counsel may discharge the duty to commence an appeal under this subsection by complying with policies and procedures established by the office of public defense services for appeals of juvenile court judgments.

(5)(a) Upon motion of a person, other than the state, entitled to appeal under subsection (1) of this section, the appellate court shall grant the person leave to file a notice of appeal after the time limits described in subsection (3) of this section if:

(A) The person shows a colorable claim of error in the proceeding from which the appeal is taken; and

(B) The person shows that the failure to file a timely notice of appeal is not personally attributable to the person.

(b) A person other than the state is not entitled to relief under this subsection for failure to file timely notice of cross-appeal when the state appeals pursuant to ORS 419A.208.

(c) The request for leave to file a notice of appeal after the time limits prescribed in subsection (3) of this section must be filed no later than 90 days after entry of the judgment being appealed and must be accompanied by the notice of appeal sought to be filed. A request for leave under this subsection may be filed by mail and is deemed filed on the date of mailing if the request is mailed as provided in ORS 19.260.

(d) The court may not grant relief under this subsection unless the state has notice and opportunity to respond to the person's request for relief.

(6) An appeal to the Court of Appeals must be conducted in the same manner as an appeal under ORS chapter 19 except that:

(a) The court shall advance the appeal on the court's docket in the same manner as appeals in criminal cases; and

(b) The court's scope of review is de novo on the record.

(7)(a) Except as provided in ORS 419A.208 (2), or when otherwise ordered by the appellate court, the filing of an appeal does not suspend an order or judgment of the juvenile court nor discharge the ward or youth offender from the custody of the person, institution or agency in whose custody the ward or youth offender may have been placed nor preclude the juvenile court after notice and hearing from entering such further orders relating to the ward or youth offender's custody pending final disposition of the appeal as it finds necessary by reason only of matters transpiring subsequent to the order or judgment appealed from. The trial court administrator shall immediately file certified copies of any such order or judgment with the Court of Appeals.

(b) Notwithstanding the filing of an appeal from a jurisdictional or dispositional judgment or an order entered pursuant to ORS 419B.449 or 419B.476, the juvenile court may proceed with the adjudication of a petition seeking termination of the parental rights of a parent of the ward who is subject to the judgment from which the appeal is taken.

(c) The appeal of any judgment entered in a termination of parental rights proceeding under paragraph (b) of this subsection must be consolidated, if appropriate, with any pending appeal of an order or judgment entered under ORS 419B.325, 419B.449 or 419B.476. The consolidated appeal must be conducted and advanced on the court's docket in the same manner as termination of parental rights cases.

(8) On appeal of a judgment or final order, the appellate court may review any interlocutory order that:

(a) Involves the merits or necessarily affects the judgment or final order appealed from; and

(b) Was made after entry of the last appealable judgment or final order preceding entry of the judgment or final order being appealed.

(9) The district attorney or Attorney General shall represent the state in the appeal.

(10)(a) The court from which an appeal is taken shall prepare and transmit a record on appeal in the manner provided in ORS 19.365, except that, when the appeal is to the circuit court from a county court, the record on appeal shall be prepared and transmitted by the county court to the circuit court.

(b) The court to which an appeal is taken under this section shall keep a record of the case on appeal that includes but is not limited to notices of appeal, briefs, motions, orders of the court and other papers filed with the court on appeal.

(c) The record on appeal prepared and transmitted under paragraph (a) of this subsection, when it is in the custody of the court to which the appeal is taken, and the record of the case on appeal kept under paragraph (b) of this subsection are subject to the same limitations on inspection, copying and disclosure of records, reports and materials as those set forth under ORS 419A.255 and 419A.257.

(d) The court on appeal may consent to disclosure of:

(A) Records described in paragraph (a) of this subsection, while in the custody of the court to which the appeal is taken, in the same manner and under the same circumstances as the juvenile court consents to disclosure under ORS 419A.255 and 419A.257; or

(B) Records described in paragraph (b) of this subsection.

(e) Notwithstanding any other provision of law, any decision, as that term is defined in ORS 19.450, issued by the Court of Appeals or the Supreme Court, on appeal or review of a juvenile court decision, is not confidential and is not exempt from disclosure.

JUROR ELIGIBILITY

SECTION 13. ORS 10.030, as amended by section 4, chapter 70, Oregon Laws 2007, and section 13, chapter 100, Oregon Laws 2007, is amended to read:

10.030. (1) Except as otherwise specifically provided by statute, the opportunity for jury service may not be denied or limited on the basis of race, religion, sex, sexual orientation, national origin, age, income, occupation or any other factor that discriminates against a cognizable group in this state.

(2) Any person is eligible to act as a juror in a civil trial unless the person:

- (a) Is not a citizen of the United States;
- (b) Does not live in the county in which summoned for jury service;
- (c) Is less than 18 years of age; or
- (d) Has had rights and privileges withdrawn and not restored under ORS 137.281.

(3)(a) Any person is eligible to act as a **grand juror, or as a juror** in a criminal trial, [*beginning on or after December 5, 1996,*] unless the person:

- (A) Is not a citizen of the United States;
- (B) Does not live in the county in which summoned for jury service;
- (C) Is less than 18 years of age;
- (D) Has had rights and privileges withdrawn and not restored under ORS 137.281; [*or*]
- (E) Has been convicted of a felony or served a felony sentence within the [*prior*] 15 years **immediately preceding the date the person is required to report for jury service; or**

(F) Has been convicted of a misdemeanor involving violence or dishonesty, or has served a misdemeanor sentence based on a misdemeanor involving violence or dishonesty, within the five years immediately preceding the date the person is required to report for jury service.

(b) As used in this subsection:

(A) "Felony sentence" includes any incarceration, post-prison supervision, parole or probation imposed upon conviction of a felony or served as a result of conviction of a felony.

(B) "Has been convicted of a felony" has the meaning given that term in ORS 166.270.

(C) "Misdemeanor sentence" includes any incarceration or probation imposed upon conviction of a misdemeanor or served as a result of conviction of a misdemeanor.

(4) A person who is blind, hard of hearing or speech impaired or who has a physical disability is not ineligible to act as a juror and may not be excluded from a jury list or jury service on the basis of blindness, hearing or speech impairment or physical disability alone.

(5) A person is ineligible to act as a juror in any circuit court of this state within 24 months after being discharged from jury service in a federal court in this state or circuit court of this state unless that person's service as a juror is required because of a need for additional jurors.

[(6) *In addition to the disqualifications listed in subsection (2) of this section, a person is ineligible to act as a juror on a grand jury if the person has been convicted of a felony, other than a felony traffic offense, or has served a felony sentence, other than a sentence for a felony traffic offense, within the prior 15 years. As used in this subsection, "conviction" means an adjudication of guilt upon a verdict or finding entered in a criminal proceeding in a court of competent jurisdiction.*]

MISCELLANEOUS

SECTION 14. The unit captions used in this 2009 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2009 Act.

SECTION 15. This 2009 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect on its passage.

Passed by Senate February 4, 2009

Repassed by Senate June 12, 2009

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Secretary of Senate

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President of Senate

Passed by House June 10, 2009

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Speaker of House

Received by Governor:

.....M,....., 2009

Approved:

.....M,....., 2009

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Governor

Filed in Office of Secretary of State:

.....M,....., 2009

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Secretary of State